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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

WILLIAM OFMAN, Plaintiff and Appellant, v. JARDINE CALIFORNIA MOTORS LIMITED, Defendant and Respondent.	B164239 (Los Angeles County Super. Ct. No. BC254192)

APPEAL from a judgment of the Superior Court of Los Angeles County. Soussan G. Bruguera, Judge. Affirmed.

Nagler & Associates, Lawrence H. Nagler and Arthur R. Angel for Plaintiff and Appellant.

Arnold Barry Gold and Steven W. Weinshenk for Defendant and Respondent.

Plaintiff and appellant William Ofman appeals from a summary judgment entered in favor of defendant and respondent Jardine California Motors Limited (JCM) in this action arising from Ofman's purchase of a used car from JCM. Ofman contends triable issues of fact exist as to his causes of action for fraud, concealment, and negligent misrepresentation, and JCM's affirmative defenses of estoppel and unclean hands. We conclude that no triable issues of fact have been raised as to estoppel. We affirm.

FACTS AND PROCEDURAL BACKGROUND

Allegations of the Complaint

On July 13, 2001, Ofman filed a complaint against JCM for fraud, concealment, and negligent misrepresentation. JCM's second amended answer included the affirmative defenses of estoppel, unclean hands, and accord and satisfaction. Ofman filed an amended complaint with the trial court's permission. The allegations of the amended complaint were as follows.

JCM sells new and used Mercedes-Benz cars. In July 1996, JCM had a used 1994 Mercedes-Benz car for sale. JCM employees told Ofman that the car was in "pristine" condition, had never been involved in any accidents, and had passed a multi-point inspection and certification regimen. These representations were knowingly false, made with a reckless disregard for the truth, or made without reasonable grounds for believing them to be true. JCM concealed that the car had been involved in at least one major collision; had sustained significant accident damage; had had its hood, fenders, back bumper, and other suspension-related parts replaced; and was worth substantially less than JCM had represented. Ofman relied on JCM's representations about the car's condition and purchased the car on July 22, 1996.

The car was not involved in any collisions while Ofman owned it, but Ofman had brought the car to JCM regularly to repair recurring problems. In October 1999, Ofman

wanted to trade the 1994 car to JCM for a used 1998 car. JCM appraised the 1994 car. JCM told Ofman that due to accident damage and the replacement of numerous parts, the car's value had been significantly diminished. JCM's manager confirmed that the car had been involved in at least one significant collision prior to Ofman's purchase of the car. JCM offered to accept the car as a trade-in for a significantly lower price than it would have credited Ofman absent the damage and replaced parts.

Ofman offered the car to several other Mercedes-Benz dealers, but none would purchase the car after discovering that it had sustained significant damage in an accident. Ofman was forced to trade the car to JCM for substantially less than the value he would have received had the car been in the condition represented by JCM when Ofman purchased the car.

Motion for Summary Judgment and Supporting Evidence

On July 15, 2002, JCM filed a motion for summary judgment on several grounds, including that Ofman was estopped from pursuing his claims, because Ofman, by his conduct and statements, caused JCM to believe that increasing the trade-in value of the 1994 car would resolve Ofman's claims. JCM relied on the conduct and statements. In support of the motion for summary judgment, JCM submitted: employee and expert declarations; Ofman's and his attorney's deposition testimony; a letter that Ofman's attorney sent to JCM on September 23, 1999; the buyer's guide for the car; the Carfax report for the car; the purchase agreement; and the master warranty record maintained by Mercedes-Benz for the car showing all work performed under warranty. JCM's evidence established the following.

JCM purchases used cars with no apparent signs of significant collisions. In May or June 1995, JCM's used car manager Sudhir Sood inspected the 1994 car in Florida for signs of body repair and found none. He purchased the car for JCM for $85,500. In June 1995, a JCM technician performed a standard Mercedes-Benz pre-owned vehicle

inspection. An integral part of the inspection is to check for structural damage, which is a sign of prior significant collision damage. The technician noted on the inspection report that the car was in very good condition and no structural damage had been found. The technician concluded the car was suitable for sale by JCM. Sood frequently drove the car without incident until Charles Bonaparte purchased it in November 1995. In June 1996, Bonaparte traded the car back to JCM.[1]

In June 1996, general sales manager Todd Carter appraised the car at $77,800. JCM spent $2,050.34 for smog reconditioning, dent removal, the addition of chrome wheels, and delivery. In June 1996, a JCM technician performed another Mercedes-Benz pre-owned vehicle inspection. No structural damage was found. The technician concluded that the car was structurally sound and suitable for sale by JCM.

In July 1996, Scott Tinney was working as a used car manager at JCM. Sood was his supervisor. Ofman was a longtime customer of the dealership. Ofman saw the 1994 car on a display podium and liked the look of the car. He spoke to Tinney, Sood, and JCM salesperson Mike Waller. They said it was a great car and encouraged him to take a test drive, but Ofman did not have time. Ofman returned a few days later on July 22, 1996. He found the car's mileage and price acceptable. He test drove the car with salesperson Waller. Waller told Ofman that JCM keeps only the finest cars and cars that don't fit their criteria are "wholesaled out." The car was still under warranty. Tinney told Ofman that the car had been inspected meticulously by JCM staff and was in pristine condition. They negotiated the price. Ofman agreed to purchase the car for $82,500.

Ofman brought the 1994 car to JCM on multiple occasions for service and repairs, including: repair of body damage to the right front bumper on February 5, 1997, at a charge of $355; repainting the hood of the car on March 18, 1997, at a charge of $325; and repair of damage to the right rear wheel and suspension, including replacement of the

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[1] Neither the price Bonaparte paid nor the trade-in allowance are evidence from the record.

wheel, wheel hub, wheel carrier, and several different links and arms on June 10, 1997, at a charge of $2,267.79.

In September 1999, Ofman was interested in purchasing a used 1998 car that was on the JCM lot. He asked JCM to appraise the trade-in value of the 1994 car. JCM's used car sales manager Mark Haynes appraised the 1994 car. Haynes noticed that the hood had been repainted, the front bumper replaced, minor sheet metal work had been done to the front end, a rear wheel had been replaced, and some rear end suspension work had been performed. Haynes concluded that the car had been involved in a prior collision. In addition, the car was no longer under warranty and the demand for specialty market cars was low. Haynes appraised the car's trade-in value at $37,000. Ofman was unhappy with the appraisal.

On September 23, 1999, JCM allowed Ofman's attorney William Lloyd to use JCM's equipment to inspect the 1994 car. JCM's general sales manager Michael Taheri told Ofman that he would instruct JCM's staff to treat the car as if it were in very good condition for the purposes of assessing the trade-in value. That day, Attorney Lloyd wrote a letter to Taheri confirming his promise to treat the car as if it were in very good condition. Attorney Lloyd listed the repairs and damage that he found during his inspection: (1) replacement of the rear bumper shell; (2) right rear suspension work performed during Ofman's ownership due to a broken part; (3) replacement of the right front fender; (4) replacement of the front suspension stabilizer bar or bars; (5) removal of and some repairs to the hood, including the right latch assembly; (6) removal of front cross-members used to mount auxiliary fan assemblies; (7) removal of sheet metal below headlight and turn signal assemblies, not completely re-welded in place; (8) damage to underside of right tow hook assembly; and (9) damage to the sheet metal skirt behind the front bumper to the left of the center of the car.

Attorney Lloyd wrote: "The inspection clearly indicates that there was an accident with substantial impact to the right front of the car. . . . [¶] The rear damage, along with the need to repair the right rear suspension indicates that there was a second

impact to the right rear wheel and bumper. . . . [¶] Dr. Ofman has informed me that the vehicle . . . had supposedly undergone a thorough inspection before sale. Clearly this inspection should have located the damage noted above. He has not had any accidents with the car since purchase and it has been serviced by your facilities regularly. Thus, I am at a loss to determine how the damage could have gone unnoticed for over three years since his purchase from you." In closing, Attorney Lloyd wrote, "As we discussed, I would appreciate receipt of a copy of your complete repair history, including the prior owner's repairs as soon as possible. . . . [¶] I look forward to hearing from you immediately so that the situation can be resolved and Dr. Ofman can, hopefully, replace the car with the one that he is looking at."

Taheri received Attorney Lloyd's letter. Taheri instructed Haynes to significantly increase the trade-in value for the 1994 car, because: (1) Ofman had made multiple prior purchases; (2) Ofman was interested in purchasing another car from JCM and the increased trade-in value would improve the likelihood of making the sale; and (3) the claims and demands made by Ofman's attorney in the September 23, 1999 letter would be considered resolved and settled. Haynes understood that if he increased his initial appraisal, Ofman would be "satisfied." Haynes increased the trade-in amount to $47,000. Ofman, with the assistance of a person that JCM believed to be an attorney, completed the transaction on September 30, 1999. The purchase price of the 1998 car was $90,695. Had Taheri known that Ofman intended to sue JCM anyway, he would not have directed Haynes to increase the trade-in value of the car. He would have referred the matter to JCM's attorney. In 2001, Ofman purchased another used Mercedes-Benz from JCM.

JCM submitted the following expert testimony. JCM's experts reviewed the master warranty record maintained by Mercedes-Benz for the car reflecting all work performed under warranty through February 2002, as well as 32 repair orders for the car for work performed from June 1995 through February 2001. The experts opined that the repair orders did not suggest that the car had sustained any significant collision damage prior to Ofman's purchase of the car. However, the February 5, March 18, and June 10,

1997 repair orders were evidence of collision damage during Ofman's ownership of the car. The experts also reviewed the June 1995 and June 1996 vehicle inspection reports. They opined that the car had not been involved in any significant collisions prior to Ofman's purchase and JCM had no reason to believe otherwise.

JCM's shop foreperson further opined that the items listed in Attorney Lloyd's September 23, 1999 letter were not evidence of an accident with substantial impact to the right front of the car. Moreover, the evidence related to the right rear suspension was entirely attributable to Ofman's collision in June 1997. The Carfax vehicle history report showed that no accident records were found by the service.

Opposition to the Motion for Summary Judgment and Supporting Evidence

On September 5, 2002, Ofman filed an opposition to the motion for summary judgment. Ofman submitted his declaration, the deposition testimony of his friend Deitra Rosson, and the deposition testimony of Taheri to establish the following additional facts. On the first day that Ofman looked at the 1994 car, Waller told him it was a great car and encouraged him to take a test drive. Tinney said JCM sold only the best cars. He said all JCM's cars had been carefully selected and thoroughly inspected using a 100-point or more detailed inspection. Tinney said if a car did not meet JCM's very high standards, it was wholesaled out, and only the finest cars were kept. Tinney told Ofman, "this is an absolutely pristine car."

Ofman returned on July 22, 1996. He brought his friend Deitra Rosson, who was also interested in purchasing a Mercedes-Benz. Ofman was concerned about the car's accident history and specifically asked if the car had been involved in any accidents. The JCM employees all affirmatively stated that the car had not been involved in any accidents and one said that the car was in "perfect condition." Ofman relied on JCM's representations. If they had told him that the car had been involved in an accident, he would not have purchased it.

After Ofman purchased the car, he had it serviced regularly and exclusively by JCM. Ofman experience a multitude of problems from the time of his purchase to the time he traded it back to JCM, including: a constant windshield wiper problem; "clicking" in the steering wheel; the left and right sides had various suspension problems; repeated failure of the electrical system; loosening of interior parts; and swaying of the car. The first time Ofman drove at night, he realized the windshield was badly pitted. JCM replaced the windshield.

Ofman was not involved in any collision during the time he owned the car. The car sustained minor damage while he owned it, consisting of a scraped bumper that occurred when Ofman pulled out of his garage and a dented right rear wheel. Ofman became increasingly distressed by the problems he was having with the car. In September 1999, he decided it was no longer safe or prudent to own the car. A JCM service representative who attempted to repair the car told Ofman that after so many attempts to repair the car, it was probably unfixable and he should consider trading it.

In September 1999, Ofman went to JCM with the intention of trading the car for another car. JCM appraised the trade-in value. JCM told Ofman that the car had been in one or more major accidents and its value was minimal, probably in the range of $10,000 to $15,000. JCM essentially refused to accept the car as a trade-in. Ofman took the car to three different Mercedes-Benz dealers, but none would make Ofman an offer.

Ofman returned to JCM in desperation. Attorney Lloyd, who has a background in engineering and vast experience repairing cars, and a JCM mechanic inspected the car. Both the mechanic and the attorney agreed that the car had clearly been in one and possibly more major accidents. After the inspection, JCM increased the trade-in offer to $37,000 and then to $47,000. The trade-in price was conditioned on Ofman purchasing another car from JCM. Ofman felt he had no choice but to accept the $47,000 trade-in value and purchase another used car from JCM. There was no discussion that by agreeing to the deal, Ofman's dispute would be resolved.

After Ofman traded in the 1994 car and completed his purchase of the 1998 car, Attorney Lloyd sent JCM two additional letters. On October 26, 1999, Attorney Lloyd wrote to Taheri stating: "I have yet to hear from you regarding my letter of Sept. 23, 1999. . . . [¶] Despite our concerns and the obvious problems that we have regarding the car, Dr. Ofman has purchased the other vehicle due to the fact that he had no choice given the knowledge that he now has regarding the reduced value. However, this does not resolve the situation as to the original sale to him. As you are aware, I have only conducted a preliminary inspection of the vehicle. Thus, my involvement has been minimal to date. I have taken no other steps to involve others or to have the vehicle and [its] history reviewed in detail. Clearly, then, the opportunity to resolve the situation is short lived. Please avail yourselves of the opportunity. [¶] If we cannot resolve the situation, I must demand that I receive the complete history including repairs and sales of the vehicle immediately." Attorney Lloyd requested an immediate response.

On November 18, 1999, Attorney Lloyd wrote a brief letter to Taheri stating: "I have yet to receive a response to my letter of October 26, 1999. Please provide me with the records forthwith." Ofman also sent letters to JCM's president and Mercedes-Benz-USA. No replies were ever received. JCM's president admitted that he received the letters and gave them to Taheri. Ofman did not discuss with JCM employees whether increasing the trade-in value of the car would resolve the situation and he never signed any paper confirming that his claims were resolved.

When Ofman purchased another car from JCM in 2001, JCM stated that the car was in perfect condition and under extended warranty. JCM represented that it would service the 1998 car and the 2001 car in a timely manner. However, in August 2002, JCM informed Ofman that it would no longer service either of his cars.

Ofman also submitted Attorney Lloyd's declaration setting forth his qualifications as an expert witness, his observations during his inspection of the car in September 1999, and his opinion that the car had been in at least one, and more likely two, major accidents prior to Ofman's purchase. In addition, Attorney Lloyd declared that there had been no

discussion or agreement between him and any JCM employee that increasing the trade-in value of the 1994 car would resolve Ofman's claims.

Ofman submitted the expert declaration of J.A. "Doc" Watson. Watson reviewed: (1) the repair orders for service performed during Ofman's and subsequent purchaser James Reilly's ownership of the car; (2) the Mercedes-Benz master warranty record for the car; (3) the deposition testimony of Ofman and Attorney Lloyd; and (4) JCM's declarations. Watson also inspected the car on April 24, 2002. Based on his findings, Watson opined that the car had been involved in at least one, and possibly more than one significant accident prior to its sale to Ofman. Ofman experienced numerous significant problems with the car, all of which were highly unusual for this year, make, and model, and consistent with the conclusion that the car had been involved in at least one significant collision prior to Ofman's ownership. The numerous repair orders and the condition of the car were such that it was impossible for JCM not to have known the true condition of the car at the time it was sold to Ofman. Moreover, the number of repair orders generated during the time Ofman owned the car support finding that the collision damage occurred prior to Ofman's ownership of the car.

Ofman filed objections to JCM's evidence in support of the motion for summary judgment.

Reply and Supporting Evidence

JCM filed a reply and submitted the declaration of prior owner Bonaparte. Bonaparte had owned the car from November 28, 1995, to June 13, 1996. During the time Bonaparte owned the car, it was never involved in an accident or collision of any kind. Bonaparte traded in the car for a less expensive car for personal reasons completely unrelated to the 1994 car.

JCM filed a declaration from Mercedes-Benz-USA employee Carl Partyka. Partyka declared that the master vehicle warranty record usually reflects whether a car

has been in a serious accident, because the accident may have an effect on whether the factory will extend warranty benefits to the warranty holder. The record for the 1994 car does not reflect any accidents. It shows that the warranty was always in full force and effect and no warranty work was ever denied on the basis of an accident.

JCM submitted additional expert declarations stating that after reviewing the repair history of the car and the opinions of Ofman's expert, they conducted a thorough inspection of the car on August 30, 2002, that included removing the bottom panel of the car and exposing the front end. It was their expert opinion that the car exhibited no evidence that it had sustained any significant collision or accident damage.

JCM filed evidentiary objections to Attorney Lloyd's and Watson's declarations on the ground that they were not qualified to render expert opinions.

Subsequent Proceedings

Ofman attempted to rescind his purchases of the 1998 car and the 2001 car. On September 13, 2002, Ofman requested leave to file a supplemental complaint for fraud, negligent misrepresentation and breach of contract related to JCM's refusal to continue providing repair and maintenance services for Ofman's cars. Ofman also filed objections to the declarations JCM submitted in support of its reply. JCM opposed the motion to file a supplemental complaint and Ofman's objections to reply evidence.

A hearing was held on the motion for summary judgment on September 19, 2002. The trial court permitted supplemental briefing on the issue of estoppel. On September 30, 2002, Ofman filed a supplemental brief in opposition to the motion for summary judgment on the ground that JCM had not established the elements of estoppel. JCM filed a reply. After a hearing on October 7, 2002, the trial court took the motion for summary judgment under submission and delayed the hearing on the motion to file a supplemental complaint. On November 22, 2002, the trial court issued an order granting summary judgment on the grounds that no triable issues of fact existed as to JCM's

affirmative defenses of estoppel and unclean hands. The trial court sustained JCM's objections to Attorney Lloyd's declaration on the ground that Attorney Lloyd was not competent to render the expert opinions set forth in his declaration, but overruled JCM's objections to Watson's declaration and Ofman's objections to JCM's evidence. On November 22, 2002, the trial court entered judgment against Ofman. Ofman filed a timely notice of appeal.

DISCUSSION

Standard of Review

"'A defendant is entitled to summary judgment if the record establishes as a matter of law that none of the plaintiff's asserted causes of action can prevail.' (*Molko* v. *Holy Spirit Assn.* (1988) 46 Cal.3d 1092, 1107, citations omitted.) The pleadings define the issues to be considered on a motion for summary judgment. (*Sadlier* v. *Superior Court* (1986) 184 Cal.App.3d 1050, 1055.) As to each claim as framed by the complaint, the defendant must present facts to negate an essential element or to establish a defense. Only then will the burden shift to the plaintiff to demonstrate the existence of a triable, material issue of fact. (*AARTS Productions, Inc.* v. *Crocker National Bank* (1986) 179 Cal.App.3d 1061, 1064-1065.)" (*Ferrari v. Grand Canyon Dories* (1995) 32 Cal.App.4th 248, 252.) "There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) We review orders granting or denying a summary judgment motion de novo. (*FSR Brokerage, Inc. v. Superior Court* (1995) 35 Cal.App.4th 69, 72; *Union Bank v. Superior Court* (1995) 31 Cal.App.4th 573, 579.) We exercise "an independent assessment of the correctness of the trial court's ruling, applying the same legal standard as the trial court in determining whether there

are any genuine issues of material fact or whether the moving party is entitled to judgment as a matter of law." (*Iverson v. Muroc Unified School Dist.* (1995) 32 Cal.App.4th 218, 222.)

Estoppel

Ofman contends triable issues of fact exist as to the affirmative defense of estoppel. We disagree.

Estoppel applies "where the conduct of one party has induced the other to take such a position that it would be injured if the first should be permitted to repudiate its acts." (*DRG/Beverly Hills, Ltd. v. Chopstix Dim Sum Cafe & Takeout III, Ltd.* (1994) 30 Cal.App.4th 54, 59.) The doctrine acts defensively only. (11 Witkin, Summary of Cal. Law (9th ed. 1990) Equity, § 177, p. 859.)

The defense of equitable estoppel is established by showing: (1) the plaintiff knew the facts; (2) the plaintiff intended that his or her conduct would be acted upon, or acted such that the defendant had the right to believe it was so intended; (3) the defendant was ignorant of the true state of the facts; and (4) the defendant relied upon the conduct to his or her injury. (*DRG/Beverly Hills, Ltd. v. Chopstix Dim Sum Cafe & Takeout III, Ltd.*, *supra*, 30 Cal.App.4th at p. 59; *Golden West Baseball Co. v. City of Anaheim* (1994) 25 Cal.App.4th 11, 47.) There can be no estoppel where one of these elements is missing. (*Golden West Baseball Co. v. City of Anaheim, supra,* 25 Cal.App.4th at p. 47.)

The defendant is not required to show an intentional misrepresentation. (*Golden West Baseball Co. v. City of Anaheim, supra,* 25 Cal.App.4th at p. 47.) "Actual fraudulent intent is ordinarily unnecessary to raise an estoppel if the circumstances are such that 'a fraud would be perpetrated' by permitting a denial of the representations. [Citations.]" (11 Witkin, *supra*, § 179, at p. 861.) "Negligence that is careless and culpable conduct is, as a matter of law, equivalent to an intent to deceive and will satisfy

the element of fraud necessary to an estoppel." (*Crestline Mobile Homes Mfg. Co. v. Pacific Finance Corp.* (1960) 54 Cal.2d 773, 778-779.)

In this case, the undisputed facts, including the only reasonable inferences, established each element of JCM's estoppel defense. Ofman was aware of the necessary facts when he accepted the increased trade-in value for the 1994 car and completed his purchase of the 1998 car. He knew about his potential claims against JCM. JCM had represented to him that the 1994 car had not been in any accidents at the time that he bought it and Ofman did not have any accidents during his ownership of the car. Yet, the car showed evidence of collision damage. The collision damage was first brought to Ofman's attention when Haynes explained the low trade-in value for the 1994 car and subsequently confirmed by other dealerships and Attorney Lloyd's inspection. Therefore, Ofman was unquestionably aware of his potential claims against the dealership at the time of the trade-in. He also knew that even if JCM offered him an acceptable deal on the 1998 car, he did not intend for his purchase to resolve his claims. Ofman was aware of all the facts related to the estoppel.

However, Ofman intended for JCM to rely on his conduct and his statements to increase the trade-in value of the 1994 car and make a deal for the purchase of the 1998 car that Ofman could find acceptable. Attorney Lloyd's letter stated that the 1994 car had clearly been in an accident, JCM should have known it had been in an accident based on inspections and service of the car, and yet JCM had represented at the time of sale to Ofman that the car had been vigorously inspected. After laying out the basis for Ofman's potential claims, the attorney requested the repair history for the car from JCM. In closing, the attorney wrote: "I look forward to hearing from you immediately so that the situation can be resolved and Dr. Ofman can, hopefully, replace the car with the one that he is looking at." In other words, Attorney Lloyd requested that JCM work with Ofman to reach an agreement that would resolve the issues raised in the letter and allow Ofman to purchase the 1998 car. The issues would need to be resolved first and the outcome of resolving Ofman's issues would be Ofman's completed purchase of the 1998 car.

Ofman intended by his conduct and statements to induce JCM to make him a better offer toward the purchase of the 1998 car. From the beginning, Ofman had expected a higher trade-in value for the 1994 car and wanted to purchase the 1998 car. JCM reasonably believed from the statements in the letter that if they acted promptly and offered a deal to Ofman that Ofman accepted, his claims would be resolved.

JCM did not know that Ofman would pursue his claims regardless of whether JCM made an acceptable deal for the 1998 car. There is no evidence to suggest that JCM did not reasonably believe the language of the letter stating that they could act quickly to resolve Ofman's claims and result in Ofman's purchase of the 1998 car.

JCM relied on Ofman's conduct and communication to increase the trade-in allowance for the 1994 car by as much as $37,000 and sell the 1998 car to Ofman. Ofman accepted JCM's offer of a $47,000 trade-in value and the negotiated purchase price for the 1998 car. JCM would not have credited Ofman with a substantially inflated trade-in value for the 1994 car had JCM known that Ofman intended to sue JCM regardless. After the trade-in of the 1994 car for the 1998 car in September 1999, Ofman drove the 1998 car at least until August 2002. Ofman did not file his original complaint in this action for almost two years following the trade-in for the 1998 car.

All of the elements of estoppel have been met. Therefore, we conclude Ofman is estopped from claiming that the increased trade-in value and completed purchase of the 1998 car did not resolve his claims. The trial court properly granted JCM's motion for summary judgment on the ground that the undisputed facts, including the only reasonable inferences to be drawn therefrom, established all of the elements of estoppel. Ofman did not demonstrate the existence any triable issues of fact.

DISPOSITION

The judgment is affirmed. Respondent Jardine California Motors Limited is awarded its costs on appeal.

NOT TO BE PUBLISHED.

GRIGNON, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.